

Message Text

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TO AMEMBASSY ANKARA

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E. O. 11652: GDS

TAGS: MARR, TU

SUBJECT: TAX RELIEF FOR USG DEFENSE EXPENDITURES IN TURKEY

1. AS A RESULT OF DOD REQUEST TO EUCOM, TUSLOG HAS PREPARED STUDY DATED 2 FEBRUARY 1973 ON THE TOTAL ECONOMIC BURDEN OF TURKISH TAXES ON USG DEFENSE EXPENDITURES. THE STUDY ESTIMATES THAT APPROXIMATELY EIGHTY- FIVE THOUSAND DOLLARS IS SPENT ANNUALLY FOR TURKISH TAXES ON USG EXPENDITURES FOR THE COMMON DEFENSE (NOT COUNTING INCOME AND SOCIAL INSURANCE TAXES FOR WHICH RELIEF IS NEITHER AVAILABLE NOR APPROPRIATE). THE FOLLOWING TAXES ARE IDENTIFIED IN THE STUDY AS BEING ULTIMATELY PAID BY USG IN VARIOUS SITUATIONS AND AMOUNTS: PRODUCTION TAX, STABILIZATION PREMIUM FUND TAX, OPERATION OR SALES TAX, VILLAGE ELECTRIFICATION TAX, AND NATIONAL DEFENSE TAX ON TELEPHONE.

2. DEPARTMENT AND DOD ARE OF VIEW THAT USG IS ENTITLED TO RELIEF FROM ALL OF ABOVE NAMED TAXES UNDER PROVISIONS OF EXISTING AGREEMENTS BETWEEN THE UNITED STATES AND TURKEY.

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EVEN IF, FOR THE SAKE OF ARGUMENT, WE WERE TO ACCEPT THE LONGSTANDING GOT POSITION (WHICH WE REJECT) THAT RELIEF FROM THE PRODUCTION TAX IS NOT AVAILABLE UNDER THE 1954 TAX RELIEF AGREEMENT (TRA) BECAUSE IT IS NOT SPECIFICALLY LISTED THEREIN, THE USG IS ENTITLED TO RELIEF FROM THIS TAX, AS WELL AS THE STABILIZATION PREMIUM FUND TAX AND THE

OPERATION OR SALES TAX, UNDER ARTICLE VII, PARA 5 OF THE DCA, WHICH PROVIDES THAT: " MATERIALS, EQUIPMENT AND SUPPLIES PROCURED IN TURKEY SHALL BE EXEMPT FROM TAXES, FEES, CUSTOMS DUTIES AND ALL OTHER FISCAL OBLIGATIONS." SINCE THESE THREE TAXES ARE IMPOSED IN CONNECTION WITH THE PROCUREMENT OF VARIOUS MATERIALS AND SUPPLIES IN TURKEY, THE ABOVE CITED PROVISION OF DCA ENTITLES USG TO RELIEF FROM THE TAXES, IRRESPECTIVE OF APPLICABILITY OF THE TRA. AT THE SAME TIME, PARAGRAPHS 2(E) AND 2(H) OF THE TRA ENTITLE USG TO RELIEF FROM VILLAGE ELECTRIFICATION TAX AND NATIONAL DEFENSE TAX ON TELEPHONES, RESPECTIVELY. (IN OUR VIEW, VILLAGE ELECTRIFICATION TAX IS CLEARLY A " MUNICI- PAL TAX ON ELECTRICITY," WITHIN MEANING OF PARA 2(E) OF TRA.

3. THE TUSLOG STUDY NOTES THAT EVEN BEFORE NEW TAXES WERE ENACTED IN TURKEY, PROCEDURES WERE NOT ESTABLISHED GUARANTEEING EXEMPTION FROM TRANSACTION AND CONSUMPTION TAXES, NOR HAVE INTERNAL US PROCEDURES BEEN SET UP TO IDENTIFY TAXES PAID BY DOD AND ITS CONTRACTORS. IN VIEW OF THIS SITUATION, AND SINCE THE GOT HAS NOT RESPONDED TO EMBASSY REQUESTS DURING THE PAST TWO YEARS FOR RENEGOTIA- TION OF THE TRA, IT WOULD APPEAR THAT OUR CHANCES OF CLOSING THE LOOPHOLES IN USG TAX RELIEF RIGHTS IN TURKEY COULD BE ENHANCED BY THE FOLLOWING COURSE OF ACTION:

A. USING TUSLOG STUDY AS A STARTING POINT, EMBASSY SHOULD OBTAIN ASSISTANCE OF JUSMMAT AND TUSLOG IN IDENTIFYING ALL TURKISH TAXES ULTIMATELY PAID BY USG DEFENSE FUNDS, APPROPRIATED OR NONAPPROPRIATED. IN ADDI- TION TO THE TAXES IDENTIFIED IN THE TUSLOG STUDY, CAREFUL CONSIDERATION SHOULD BE GIVEN TO OTHER TURKISH TAXES. (E. G., PAGE 12 OF TURKEY COUNTRY TAX LAW STUDY INDICATES THAT A SURTAX, KNOWN AS TREASURY SHARE, IS IMPOSED AT 5-15 PER CENT OF MARKET PRICE OF IMPORTED LIQUID FUELS.

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IS THIS SURTAX BEING PAID BY US FORCES?)

B. COUNTRY TEAM SHOULD DRAFT INTERNAL USG PROCEDURES FOR IDENTIFYING TAXES PAID BY US FORCES AND THEIR CONTRACTORS.

C. AT ITS DISCRETION, EMBASSY SHOULD ADVISE MFA THAT, WHILE WE STAND READY TO RENEGOTIATE TRA, USG IS ALREADY ENTITLED TO EXEMPTION FROM THESE TAXES UNDER PROVISIONS OF RA, DCA AND OTHER AGREEMENTS (E. G., NATO SOFA AND 1954 AGREEMENT IN IMPLEMENTATION THEREOF). IN OUR VIEW, ALL THAT SHOULD BE REQUIRED TO ASSURE USG RECEIVES TAX RELIEF TO WHICH IT IS ENTITLED (INCLUDING REFUND OF TAXES ALREADY PAID) IS DEVELOPMENT OF APPROPRIATE PROCEDURES IMPLEMENTING PROVISIONS OF EXISTING AGREEMENTS. PARAGRAPH 6, ARTICLE VII OF THE DCA AND THE AGREED MINUTE THERETO AUTHORIZE THE WORKING OUT OF SUCH PROCEDURES BETWEEN THE PARTIES FOR THE IMPLEMENTATION OF TAX RELIEF PROVIDED BY ARTICLE VII. BY IMPLEMENTING ARTICLE VII OF DCA AND GIVING REASONABLE INTERPRETATION OF PROVISIONS OF TRA (E. G. PARA 2(E) OF TRA RE ELECTRICITY TAXES), GOT CAN AVOID RENEGOTIATION OF TRA AND ATTENDANT APPROVAL OF GRAND NATIONAL ASSEMBLY. IN ANY EVENT, WHETHER BY DEVELOPMENT OF IMPLEMENTING PROCEDURES OR BY RENEGOTIATION OF TRA, EMBASSY SHOULD FIRMLY MAINTAIN POSITION THAT USG IS PRESENTLY ENTITLED TO RELIEF FROM THESE TAXES AND IMMEDIATE STEPS SHOULD BE TAKEN TO ASSURE THAT RELIEF IS PROVIDED.

D. IN PREPARATION FOR DISCUSSIONS WITH GOT ALONG LINES SET FORTH IN SUBPARAGRAPH C ABOVE, COUNTRY TEAM SHOULD ALSO DRAFT IMPLEMENTING PROCEDURES, AS WELL AS PROPOSED AMENDMENTS TO TRA, IN ORDER TO BE READY TO PURSUE WHICHEVER COURSE OF ACTION GOT PREFERS. ROGERS

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